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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE FIRST PART* OF THE 33rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 28 August 1991, at 3 p.m.

Chairman: Mr. JOINET

later: Mr. HELLER

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* The summary record of the second part of the meeting appears as document E/CN.4/Sub.2/1991/SR.33/Add.1.

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The meeting was called to order at 3.20 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS OF THE SUB-COMMISSION (continued)

Draft resolutions relating to agenda item 10 (E/CN.4/Sub.2/1991/L.6, L.12, L.27, L.29, L.30 and L.32)

1. The CHAIRMAN announced that, in accordance with a suggestion by the Officers, draft resolutions would not be introduced by their sponsors, in order to save time. Statements should relate exclusively to any amendments to be made to the draft resolutions under consideration.

Draft resolution E/CN.4/Sub.2/1991/L.6

2. The CHAIRMAN said that Mr. Suescún Monroy had requested that his name be withdrawn from the list of sponsors of the draft resolution.

3. Mr. ALPHONSO MARTÍNEZ, Mr. SACHAR, Mrs. PALLEY, Mrs. DAES and Mr. MAXIM asked for their names to be added to the list of sponsors.

4. Mrs. KSENTINI asked whether the third report to be submitted by the Special Rapporteurs to the Sub-Commission at its forty-fourth session would be a further interim report. It had in fact been agreed that if the Special Rapporteurs were unable to submit their reports in the sequence agreed, in other words first a preliminary report, then an interim and then a final report, they should explain why. She would appreciate clarifications in that regard.

5. Mr. TREAT explained that he and Mr. Chernichenko would have a number of problems to solve before they could complete their report. In particular, a great deal of time would be needed for collecting the information required for the study from various countries. Accordingly, since they would be unable to submit their final report at the Sub-Commission's forty-fourth session, they had asked to be given more time for the completion of their task.

6. Mr. KEILAU (Centre for Human Rights) said the administrative and programme budget implications of draft resolution E/CN.4/Sub.2/1991/L.6 would be given in a document to be issued as E/CN.4/Sub.2/1991/L.24. A number of activities were envisaged to implement the requests contained in the draft resolution, under the work plan which the Special Rapporteurs intended to follow in order to fulfil their mandate. The plan was outlined in paragraphs 108 to 117 of their second report (E/CN.4/Sub.2/1991/29). It was planned that the two Special Rapporteurs would travel to Geneva in 1992, 1993 and 1994 (three round trips of five working days per trip) for consultations at the Centre for Human Rights, and also to Vienna in 1992 and 1993, on the same basis, for consultations at the Centre for Social Development and Humanitarian Affairs and with the Committee on Crime Prevention; the services of a specialist in computerized research technology would also be required for a period of six months in 1992, 1993 and 1994. The total cost of those activities, to be financed under Section 28 (Human Rights), were estimated at $46,900 for 1992, $49,600 for 1993 and $44,000 for 1994.

7. Draft resolution E/CN.4/Sub.2/1991/L.6 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1991/L.12

8. The CHAIRMAN said that Mr. Sachar, Mr. Rivas Posada, Mrs. Palley, Mr. Guissé, Mrs. Daes and Mr. Chernichenko wished their names to be added to the list of sponsors of the draft resolution.

9. Mr. van BOVEN said he would appreciate some clarification on the use of the formulation whereby the Sub-Commission recommended a draft resolution to the Commission on Human Rights for adoption. He did not see why the Sub-Commission should have to obtain the Commission's approval, or, if it wished to have its proposals approved for financial reasons, why it could not in that case refer the draft resolution to the Economic and Social Council. It should be borne in mind that the Commission had requested the Sub-Commission not to submit too many draft resolutions.

10. The CHAIRMAN pointed out that the draft resolution had no financial implications.

11. Mr. DESPOUY explained the members of the Working Group on Detention had drafted the text of the resolution, in order to draw attention to the fact that it was essential for all States to establish in their judicial system procedures such as habeus corpus, and to ensure that the right to that remedy should be non-derogable, even during states of emergency. It would perhaps have been sufficient for the draft resolution to have stayed within the Sub-Commission, but the Working Group had thought it appropriate, given the importance of the matter, to ask the Commission to call on all States to take the action required. It was the sincere hope of the sponsors of the draft resolution that the Sub-Commission would adopt it by consensus, and that the Commission would do the same.

12. Mr. ALFONSO MARTÍNEZ said the forme used for the draft resolution was the most appropriate for a subject as specific as habeus corpus, in view of the fact that judicial systems varied from one country to another. It was a very important innovation, which could help to clarify and strengthen relations between the Sub-Commission and the Commission, and he was therefore entirely in favour of it.

13. Mr. van BOVEN was not entirely convinced by the explanations that had been provided. When a draft resolution was adopted by the Sub-Commission and appeared in its report, the Commission, which would of course take cognizance of that report, could always take note of the draft resolution and express comments upon it. In his view, however, to request the Commission to approve the Sub-Commission's action by adopting part of the draft resolution was contrary to the instructions given by the Commission that a proliferation of resolutions be avoided.

14. Draft resolution E/CN.4/Sub.2/1991/L.12 was adopted by consensus.

Draft resolution E/CN.4/Sub.2/1991/L.27

15. The CHAIRMAN said that Mrs. Palley, Mr. Ilkahanaf, Mr. Rivas Posada, Mr. Despouy, Mr. Alfonso Martínez and Mrs. Ksentini had asked for their names to be added to the list of sponsors of the draft resolution. Mr. Chernichenko, whose name had been omitted from the list, was also a sponsor.

16. Mrs. PALLEY wondered whether it would be possible to obtain a legal opinion on the question dealt with in the draft resolution, since it was of some urgency and concerned a number of countries, her own in particular. She was convinced that the privatization of prisons was contrary to international law.

17. Draft resolution E/CN.4/Sub.2/1991/L.27 was adopted by consensus.

Draft resolution E/CN.4/Sub.2/1991/L.29

18. Mr. ALFONSO MARTINEZ supported the draft resolution, especially paragraph 2, which he considered of particular importance. In his view, the Special Rapporteur should draw particular attention in his updated report to practices that were not compatible with international standards concerning the protection of detainees. A number of States had in fact entered reservations on certain provisions of the International Covenant on Civil and Political Rights, and were not applying those provisions that related to the rights of detainees.

19. The CHAIRMAN stated that Mr. Sachar, Mr. Saboia, Mrs. Palley, Mrs. Ksentini, Mr. Ilkahanaf, Mr. Despouy, Mrs. Warzazi and Mr. Eide wished to be included among the sponsors of the draft resolution.

20. Draft resolution E/CN.4/Sub.2/1991/L.29 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1991/L.30

21. Mrs. DAES said that the number of United Nations officials who had disappeared, been abducted, or detained in certain countries against their will and denied the right to live in their own country, was now more than 100, and 20 others had been either executed or murdered. She drew particular attention to the fifth preambular paragraph and to paragrah 6 of the draft resolution, and urged the Sub-Commission to adopt it by consensus.

22. Mr. van BOVEN said that as a former international official, he was fully aware of the importance of the matter, which had unfortunately not been given sufficient consideration by the Sub-Commission during the current session. In his view, more pressure should be put on countries in which United Nations officials had disappeared to provide information on the persons concerned. It was not enough, as the Sub-Commission was doing in the draft resolution, simply to appeal to Governments: in future, steps should be taken against the countries responsible, and the United Nations might even take account of such factors in its recruitment policy and in its technical cooperation programmes. For the present, however, he fully supported the draft resolution, which he considered of great importance.

23. Mr. GUISSE said he wished to be included among the sponsors of the draft resolution. He shared the views expressed by Mr. van Boven, and hoped that the resolution would be acted upon in the various States, since United Nations officials were representatives of all countries.

24. Mr. ILKAHANAF agreed with Mr. van Boven that appealing to States was useless. At its next session, the Sub-Commission should go further, and should collect information on States which had disregarded the draft resolution. He asked that his name be added to the list of sponsors.

25. The CHAIRMAN indicated that Mr. Sachar, Mr. Rivas Posada and Mr. Despouy also wished to be included among the sponsors of the draft resolution.

26. Draft resolution E/CN.4/Sub.2/1991/L.30 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1991/L.32

27. Mr. KEILAU (Centre for Human Rights) said that the administrative and programme budget implications of the draft resolution would be given in a document to be issued as E/CN.4/Sub.2/1991/L.56. A number of activities were envisaged to implement the requests contained in it, under the work programme which the Special Rapporteur proposed to follow in order to fulfil his mandate: that plan was outlined in his fourth report (E/CN.4/Sub.2/1991/28). It was envisaged that the Special Rapporteur would travel to Geneva in 1991 (round trip of 10 working days) for consultations at the Centre for Human Rights, and to Geneva or another city in Europe in 1992 (round trip of 3 working days); it was also envisaged that the services of 2 consultants (9 months each) would be required, as well as 9 months' work by General Services staff for general temporary assistance. The total cost of those activities, to be financed under section 28 (human rights), was estimated at $150,900 for 1992.

28. Draft resolution E/CN.4/Sub.2/1991/L.32 was adopted without a vote.

Consideration of draft resolutions relating to item 12 of the agenda

Draft resolution E/CN.4/Sub.2/1991/L.36

29. Mr. KEILAU (Centre for Human Rights) said that the administrative and programme budget implications of the draft resolution would be given in a document to be issued as E/CN.4/Sub.2/1991/L.59. Under operative paragraph 4 of the draft resolution, the final report on human rights and disability was to be published in the six official languages of the United Nations, issued in Braille, large print and on cassettes, and given a wide circulation. The cost of printing in offset and distribution in the six United Nations official languages was estimated at $7,000 for 1992. Costs were to be financed under Section 28 (Human Rights), including the costs of publication in Braille, large print and on cassettes, which had not yet been estimated.

30. Mrs. DAES said that the study on human rights and disability was one of the most important ever carried out by the Sub-Commission, and she was pleased to see that it was to be disseminated widely. She hoped that the draft resolution could be adopted without a vote.

31. Mr. ALFONSO MARTÍNEZ thought that, in view of the importance of the question, the draft resolution should be adopted without a vote. He wondered whether the Secretary-General might use his influence to speed up implementation of the recommendations made by Mr. Despouy in his report, and would be glad to know the views of the sponsors of the draft resolution in that regard. He asked that his name be added to the list of sponsors.

32. The CHAIRMAN said that Mr. Saboia, Mr. Guissé, Mrs. Palley and Mrs. Ksentini also wished their names to be included in the list of sponsors.

33. Mrs. WARZAZI proposed that, in view of its importance, the draft resolution should be adopted unanimously.

34. The CHAIRMAN said that in that case it would have to be put to the vote.

35. Mrs. ATTAH said she supported Mrs. Warzazi's proposal. However, there should be no need to vote, since in her view a draft resolution that was adopted without a vote was adopted unanimously.

36. The CHAIRMAN pointed out that under rule 57 of the rules of procedure, a proposal was put to the vote if a member so requested. If no member requested a vote, the proposal could be adopted without being put to the vote, and if objections were raised, but there was still no specific request for a vote, it would be concluded that the proposal was adopted by consensus.

37. Mr. RIVAS POSADA said that as he understood it, once consensus was reached on a draft resolution, it was adopted without being put to the vote: that was the formulation used in the summary records of the meetings. Accordingly, if there were no objections, that formulation should continue to be used. The Secretariat might perhaps give some clarification on that point.

38. Mrs. WARZAZI said she considered that draft resolution E/CN.4/Sub.2/1991/L.36 should be adopted unanimously. She therefore requested that it be put to the vote.

39. Draft resolution E/CN.4/Sub.2/1991/L.36 was adopted unanimously.

40. Mr. CHERNICHENKO proposed that in order to avoid similar difficulties in future, draft resolutions on which consensus had been reached should be adopted by acclamation.

Draft resolutions relating to item 17 of the agenda

Draft resolution E/CN.4/Sub.2/1991/L.35

41. Mr. KEILAU (Centre for Human Rights) said the administrative and programme budget implications of the draft resolution would be given in a document to be issued as E/CN.4/Sub.2/1991/L.54. A number of activities were

envisaged to implement the requests made in the draft resolution, as part of the work plan which the Special Rapporteur proposed to follow in order to fulfil his mandate. In particular, it was suggested that the Special Rapporteur should consult governmental and non-governmental organizations in order to elaborate further, and complete his work on the draft charter of the rights and freedoms of youth. The Special Rapporteur would also have to travel to Geneva in 1992 (five working days) for consultations at the Centre for Human Rights, and also to Paris in 1992 (five working days) to take part in a meeting on youth. The cost of those activities, to be financed under Section 28 (Human rights) was estimated at $4,700 for 1992.

42. Mrs. KSENTINI said she was surprised that, as in the case of the report by Mr. Treat and Mr. Chernichenko, the report prepared by Mr. Mazilu did not conform to the usual sequence for the submission of reports; she regretted the absence of the Special Rapporteur, Mr. Mazilu, since she would have liked to ask him for some explanations on the matter. While she was not opposed to adoption of the draft resolution under consideration, she would like Mr. Mazilu, if his mandate was renewed, to take into account in his next report the problems of development confronting youth in today's world.

43. Mrs. ATTAH said she wished to express some reservations on the draft resolution.

44. Mrs. WARZAZI said that if there was a consensus on the draft resolution, she would join it, though with great reluctance. If the sponsors of the draft resolution could agree, she would suggest that the words "throughout the world" be added at the end of operative paragraphs 3 and 4, in order to make clear that the report did not relate to any one particular country.

45. Mr. ALFONSO MARTÍNEZ pointed out that the consultations with governmental and non-governmental organizations referred to in operative paragraph 4 would probably take a great deal of time. Where paragraph 5 was concerned, he would prefer the phrase "final report" to the phrase "report in its final form".

46. Mr. van BOVEN said he wished to be included among the sponsors of the draft resolution. Like Mrs. Ksentini, he was concerned that some studies were taking an excessively long time and becoming unduly prolonged. He therefore hoped that some of the proposals made in that connection by the Working Group, of which he was Chairman, on the methods of work of the Sub-Commission would be approved. Although it was true that the duration of studies had to be fairly strictly controlled, it should be borne in mind that in this particular case Mr. Mazilu had been working under quite exceptional conditions, which had certainly affected his work. He supported Mrs. Warzazi's proposal to add the words "throughout the world" at the end of paragraphs 3 and 4.

47. Mr. YIMER said he too was greatly concerned at the way the Special Rapporteur had carried out the study entrusted to him, and regretted the fact that the document submitted to the current session left much to be desired. In the meantime, however, he was prepared to renew the mandate of the Special Rapporteur.

48. Mr. TIAN Jin said he had some difficulty with operative paragraph 3, which referred to the problems of youth. In regard to operative paragraph 4, was it really necessary to draw up a draft charter of the rights and freedoms of youth, and was a version of that draft charter yet in existence?

49. Mrs. DAES said that, as a sponsor of the draft resolution, she could accept the amendments proposed by Mrs. Warzazi and Mr. Alfonso Martínez, even though, insofar as the latter's were concerned, she considered that the original text was sufficient. In reply to the point raised by Mr. Tian Jin, she pointed out that Mr. Mazilu's interim report (E/CN.4/Sub.2/1991/42) included a draft charter of the rights and freedoms of youth, which had already been considered by the Sub-Commission and which she herself had criticized. It would accordingly be advisable to allow the Special Rapporteur to complete the draft charter, so that the Sub-Commission could then approve it, reject it or amend it. Mr. van Boven had rightly pointed out that Mr. Mazilu had had to carry out his study in exceptionally difficult circumstances. She hoped that the Special Rapporteur would submit work that was more satisfactory to the next session, and that the draft resolution under consideration could be adopted without a vote.

50. Mr. MAXIM said that if he had added his name to those of the sponsors of the draft resolution regarding Mr. Mazilu's study, both at the current session and at the preceeding one, it was thanks to Mrs. Daes's powers of persuasion. It was true that the Special Rapporteur had been working under exceptional circumstances, but it was to be hoped that his final report would be more satisfactory.

51. Mrs. KSENTINI said she too realized that the Special Rapporteur could plead extenuating circumstances, but he should nevertheless take into account the comments made by the Sub-Commission concerning his study. In regard to operative paragraph 4, it should be made clear that the draft charter for the rights and freedoms of youth should also be completed. Accordingly, she proposed that the following phrase be added at the end of the paragraph "with a view to submitting the final version of the charter to the forty-fourth session of the Sub-Commission, which will consider the action to be taken in order to implement it".

52. Draft resolution E/CN.4/Sub.2/1991/L.35, as amended, was adopted without a vote.

Draft resolutions relating to item 18 of the agenda.

Draft resolution E/CN.4/Sub.2/1991/L.9.

53. Mrs. WARZAZI suggested that in order to strengthen paragraph 1, and to ensure greater protection for the minorities concerned, the phrase "and to guarantee them protection and security" should be added at the end of the paragraph.

54. Mr. van BOVEN hoped the draft resolution, which was intended for the Commission on Human Rights, would be adopted, since it was for the Commission, not for the Sub-Commission, to accord special attention to the specific conditions in which the Roma (gypsy) communities lived.

55. Mr. CISSE (Secretary of the Sub-Commission) said that Mrs. Attah, Mr. van Boven, Mr. Eide, Mr. Ilkahanaf, Mrs. Palley and Mr. Treat wished to be included among the sponsors of the draft resolution.

56. Draft resolution E/CN.4/Sub.2/1991/L.9 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1991/L.39

57. Mr. KEILAU (Centre for Human Rights) said the administrative and programme budget implications of the draft resolution would be given subsequently in a document to be issued as E/CN.4/Sub.2/1991/L.60. The activities to be undertaken to implement the requests contained in the draft resolution would include three journeys by the Special Rapporteur to Africa, Asia and North America for consultations with Governments (each of five working days), two trips by the Special Rapporteur to Geneva for consultations at the Centre for Human Rights (five working days), travel by six experts to Geneva to take part in a technical meeting (three working days), and the services of an expert in the rights of minorities (three months' work). The costs, to be financed under Section 28 (Human rights) of the programme budget, were estimated at $45,200 for 1992, and $24,000 for 1993. Expenditure for conference services, to be financed under section 29 (b) (Conference Services Division, Geneva) was estimated at $15,000 for 1992.

58. Mrs. DAES said Mr. Eide's very important study on possible ways and means of facilitating the peaceful solution of problems involving minorities (E/CN.4/Sub.2/1991/43), to which the draft resolution was related, had been commented on very favourably by numerous experts when it had been considered by the Sub-Commission. With regard to the financial implications of the draft resolution under discussion, she pointed out that the implications for 1992 had already been approved by - she believed - the Economic and Social Council. Accordingly, only the expenditure estimated for 1993 now needed to be taken into account. She hoped that such an important draft resolution would be adopted by consensus.

59. Mrs. KSENTINI said the comment by Mrs. Daes concerning the financial implications of the draft resolution under discussion was equally valid for the draft resolutions relating to other studies. She would like the Special Rapporteur to state why the submission of his final report was to be deferred to the Sub-Commission's forty-fifth session.

60. Mr. ILKAHANAF fully supported the draft resolution, which he believed should enable the Special Rapporteur to become better acquainted with the problems of minorities in Africa.

61. Mr. EIDE, replying to Mrs. Ksentini, said that his study involved the examination of large quantities of data, which of necessity took a great deal of time. In addition, he preferred not to make any final recomendations before he was sure that his colleagues shared his point of view. Accordingly, he would prefer to wait until 1993 before submitting his final report, even though it would have been technically possible to have it ready in time for the next session.

62. Mr. CISSE (Secretary of the Sub-Commission) stated that Mr. Ilkahanaf, Mrs. Palley and Mr. Sachar wished their names to be added to the list of sponsors of the draft resolution.

63. Mrs. DAES, replying to a question by Mr. Alfonso Martínez, said the reason that reference was made in paragraph 8 to an "updated" report was that the document submitted to the current session already constituted a preliminary report.

64. Draft resolution E/CN.4/Sub.2/1991/L.39 was adopted without a vote.

65. Mrs. ATTAH noted with some concern that the Sub-Commission had just decided to carry out a large number of studies. In view of the fact that the Commission on Human Rights had recommended that new studies should be embarked on only when a study previously authorized had been fully completed, was it to be concluded that no new study could now be undertaken?

66. The CHAIRMAN said that that question would be dealt with under item 3 of the agenda.

THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS (agenda item 7) (continued)

(a) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (E/CN.4/Sub.2/1991/59; E/1991/28

THE REA' 'ZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 8) (continued) (E/CN.4/Sub.2/1991/17, 18, 38 and Add.1, 47, 54, 59; E/CN.4/Sub.2/1991/WP.3; E/CN.4/Sub.2/1991/NGO/2, 6, 7, 29, 31; E/CN.4/Sub.2/1990/19)

67. Mr. TREAT regretted that the Sub-Commission had so little time to devote to two such important studies, the first prepared by Mrs. Mbonu on the human rights dimensions of population transfers (E/CN.4/Sub.2/1991/47), and the second by Mr. Türk on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1991/17). Studies on the problem of poverty generally paid more attention to the effects of poverty than to its causes, although in fact the causes were of a kind that the Sub-Commission was unlikely to be able to remedy. For instance, it had already been forecast that the expected world population explosion and global warming might have disastrous consequences by the beginning of the twenty-first century. The fact that the world's population would probably double over the next 10 or 15 years, and that 90 per cent of that increase would be concentrated in the developing countries, would be bound to have repercussions on the work of the Sub-Commission.

68. With regard to the utilization of resources, Mrs. Ksentini had rightly pointed out that a choice had to be made between military expenditure and civil expenditure. While it might be argued for example that the 5.6 per cent of GNP allocated by the United States to arms expenditure was excessive, there was also a need for preparedness in case of conflict. In that connection, the Minister for Foreign Affairs of the Republic of Russia had himself stated the previous day that Western countries had been justified in fearing the military

power of the Soviet Union, which had indeed been, in the words used by the former President of the United States, "the evil empire". There was thus need for a realistic approach to the question of the realization of economic, social and cultural rights. With regard to the conditions attached to the aid granted to developing countries by the developed countries, it was quite legitimate that the former should develop the political system which suited them. On the other hand, it was understandable that the developed countries should want their aid to be used wisely, and in the interests of sustainable development. The very important principle of sustainability, touched on briefly by Mr. Türk in paragraph 70 of his study, certainly deserved fuller consideration. Often not just resources, but also political will were lacking.

69. Some way had to be found of reconciling the interests of aid-receivers and aid-givers. The case of Japan, which was refusing assistance to the USSR until the Kouril Islands question was settled, was an example of the problems that arose in that connection. It had to be realized that aid would always have some kind of conditions attached. That being so, one needed to ask how those conditions would apply, how they were to be interpreted, and what purposes they would serve. It was essential that aid should reach the countries in need, but at the same time the right of the developed countries to decide on the policy to be pursued had to be respected: they could well be discouraged by debt or by excessive public spending, which led to monetary instabiity. In paragraph 91, the Special Rapporteur pointed out that many adjustment programmes had had bad economic results. In that connection, the use of unblocked funds for aid purposes should be monitored more closely, to ensure that they were in fact reaching the sectors most in need.

70. He would encourage Mr. Türk and Mrs. Mbonu to continue the work they had undertaken.

71. Mr. Heller took the Chair.

72. Mrs. PALLEY said she was extremely pleased with the quality of the reports submitted recently: they proved that the Sub-Commission was indeed fulfilling a useful role. However, the report by Mrs. Mbonu (E/CN.4/Sub.2/1991/47) did not entirely fulfil her expectations of it, notably in regard to the terminology adopted. Thus, instead of "implantation of settlements", Mrs. Mbonu had preferred to use the term "resettlement"; similarly, the term "transfer" seemed to her to imply an operation to which a population was subjected en masse, rather than an operation undertaken voluntarily. If the report was brought up to date, it should take into account the document issued by the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities. In her view, given the great difficulties of the current world situation, it was essential to reinforce the general principle that population transfers in any part of the world should be prohibited, however praiseworthy the motives for them might be. Such transfers tended to be one of the chief causes of nationalist and separatist movements. However, her comments should not be taken as detracting from the value of Mrs. Mbonu's very remarkable study, which in any case was only the initial phase of a more detailed report.

73. Mr. GROSSE (International Federation of Human Rights) pointed out that economic, social and cultural rights could not be dissociated from civil and

political rights: his organization supported the statements made by a number of members of the Sub-Commission emphasizing the need to identify the obstacles to the realization of economic, social and cultural rights before attempting to define constructive policies, measures and strategies. In that connection, he drew the Sub-Commission's attention to the situation in Kosovo, where the problems were easy to identify. Now that the province was no longer autonomous, the Serbian Government was attempting to undermine the entire Albanian education system: in fact, it was dismissing officials of the system en masse, or withholding their salaries, thus depriving thousands of research workers and teachers of their income and preventing the Albanian education system from operating. Dozens of primary schools had been closed, with the cooperation of Serbian police forces, supported by tanks and armoured cars. In addition, half of the secondary schools had been closed, chiefly in communities where the majority of the population were Albanian, thus depriving the overwhelming majority of primary school pupils of secondary education. Such a policy was in fact tantamount to a denial of the right to education and of the right to the development and diffusion of science and culture, rights guaranteed under articles 13 and 15 of the International Covenant on Economic, Social and Cultural Rights,

74. In the face of a situation of flagrant discrimination and denial of the right to education in Kosovo, the Federation was appealing to the Yugoslav authorities to take all appropriate steps to reinstate the dismissed staff of the Kosovo Department of State Education, and to ensure that Albanian teaching programmes were restored.

75. Mr. KOTHARI (Habitat International Coalition) stressed the need to give greater attention to economic, social and cultural rights, and to make them meaningful in practical terms. Where the right to housing was concerned, the Sub-Commission should appoint one of its members to study the implications of that right in greater detail. Everyone in the world needed housing and shelter, which in turn made demands on land, building materials, sanitation services, etc., and involved also the right to security of tenure; if they were properly housed, communities could make their own decisions on matters of concern to them, and could escape their crippling dependency on authorities and Governments. The right to housing was far more than the right to a property with four walls and a roof, viewed as a commodity which could be bought by those able to afford it. Rather, it should be seen as the right to a place to live, a place to settle down. Those who enjoyed that right were in a better position to attain the rest of their rights. Social harmony and respect for human rights in general were to a large extent dependent on fulfilment of the right to housing, in its widest sense. That was shown by the fact that Governments often used housing as a tool to create segregation, and hence the marginalization of certain groups, within a society.

76. If the Sub-Commission were to follow Mr. Türk's lead in seeking ways of ensuring that the right to housing was recognized and exercised, and should decide to undertake a study on the subject, it would have an opportunity of examining living conditions in today's world and of analysing why the numbers of homeless were rising so dramatically, as well as the numbers of persons uprooted, including those who were victims of arbitrary eviction. To ignore

such a crucial aspect of economic, social and cultural rights as the right to housing would hamper and possibly negate all endeavours to ensure that those rights were generally recognized and enjoyed.

77. Mr. FERNANDEZ (International Organization for the Development of Freedom in Education) said that in the light of the events that had occurred in the Soviet Union, the international community would at last be able to make progress in promoting human rights. In fact, there was an evident consensus on two points: first, that civil and political rights on the one hand, and economic, social and cultural rights on the other, were interdependent, and secondly that there was a price to be paid for recognition of economic, social and cultural rights. In that connection, the study of indicators embarked upon by Mr. Türk could help to quantify that cost, and could provide a basis for further reflection. He recalled that he had proposed to the Under-Secretary-General for Human Rights certain pilot projects which should make progress possible in the direction of the realization of economic, social and cultural rights.

78. He proposed that the first of those pilot projects should concern rights in the field of education; that would be especially appropriate since the Economic and Social Council had recently invited States to give high priority to cultural factors in development, and also in view of the fact that in the midst of the Decade for Cultural Development, the North-South divide was still in reality a divide between the "knows" and the "don't knows". Much work had to be done in regard to the right to education, and especially in regard to freedom of instruction. That right, contrary to appearances, required positive intervention on the part of the State. In fact, unless the State financed all schools without distinction, the right to the choice of school would remain mere empty words for the most disadvantaged members of society. Consideration should therefore be given to possible forms of State intervention, and to the role the State should play in an advanced democratic society. Instead of replacing civil society utilizing public money as if it were its own rather than as property administered on others' behalf, on considering society as a dead weight the State should be the catalyst of social progress. The Director-General of UNESCO himself was of the view that the State should carry out a wholesale decentralization in favour of local or private bodies, so as to confer responsibilities on political, economic and community agents, and to secure their participation.

79. Mr. AL-KASAWNEH congratulated Mr. Türk on a report that was remarkable in every way. In the new era that was at hand, he was on the side of those who perceived a widening gulf between international law and international justice. To an unbiased observer, it was clear that human beings were divided into two categories, and that wealth had never before been so unevenly distributed. Such a situation was most unfavourable for the realization of economic, social and cultural rights. In addition, the compassion factor was becoming somewhat blunted. There were those who had gone so far as to calculate that the number of deaths resulting from the recent floods in Bangladesh had been offset by the number of births that had occurred during the same period. Such a calculation derived from the theory that the world's resources were not infinite, and that mankind was entering an era of competition for survival. International funding organizations had, for their part, done nothing to correct existing imbalances. Where was the justice in

such a world? He hoped that his comments would give some idea of the background against which any study of the realization of economic, social and cultural rights should be undertaken.

80. Mrs. BEYELER (International Movement ATD Fourth World) drew the Sub-Commission's attention to the plight of certain fringe populations who would remain at the lowest level of poverty however many upheavals might be taking place in the world. Such populations, forgotten by history, were nevertheless beginning to make their voices heard, if only through the community of non-governmental organizations, and were putting forward an original view of their situation, namely that extreme poverty, wherever it occurred, was a negation of all human rights. Poverty created a common bond between all those who endured it, a bond not only of shared humiliation, but also of shared hopes, hopes of recognition as individuals whose word counted in the scheme of things, hopes of being able to live in dignity, free from want, both now and in the future.

81. In 1987, Father Joseph Wresinski had suggested that the very poor had a contribution to make to the Commission on Human Rights; he saw them as front-line defenders of human rights, as living proof that such rights were being violated, and - through their day-to-day struggle for existence - as guides to possible ways by which those rights could be realized, for the benefit of mankind as a whole. It had thus been possible to initiate a dialogue with those in extreme poverty, because all political and ideological considerations had been avoided and the sole aim was to let their voice be heard. In that connection, the report entitled "Method and plan of work for the study on human rights and extreme poverty" submitted by Mr. Suescún Monroy (E/CN.4/Sub.2/1991/18) was extremely important.

82. For the moment, any direct dialogue between the international organizations and the very poor was impossible. How could refugee families in tents, living in a danger zone where no one came to register births or deaths, living in a cemetery, or even in the street, for lack of even a hovel - how could they make their voices heard? If dialogue was eventually to be established, the Sub-Commission should first engage in indirect dialogue, in other words in collaboration with NGOs that were working in contact with the very poor, and which were participating in the Permanent Forum on Extreme Poverty or the NGO Fourth World Committee. If that were done, there would be hope that the day would come when the most disadvantaged populations of the world could join the rest in saying "We the peoples of the United Nations".

83. Mr. TEITELBAUM (American Association of Jurists) regretted that so little time had been allowed for consideration of agenda items 7 and 8. With regard to the report by Mr. Türk (E/CN.4/Sub.2/1991/17), it was unfortunate that no account had been taken in Chapter I of the important work of specialized bodies such as the Statistical Commission or the United Nations Statistics Office, or of the work of the South Commission, which had been studying the subject for some time.

84. The analysis in Chapter II of the harmful consequences of the structural adjustment policies advocated by the International Monetary Fund and the World Bank was entirely correct. According to Chapter III, there might seem to be some positive development in those policies if the statements and papers

issued by the bodies concerned were to be believed, but in his own view that was far from being the case. Only the language had changed, and the statements and papers were based not on facts, but on pious hopes. Even the information published by the Fund and the Bank on the improvement in the situation of the poorest layers of society in some countries were clearly inaccurate. The IMF was in the habit of falsifying statistics in order to justify the structural adjustments it wished to impose on various countries; that fact had been revealed by Mr. Davison Budhoo when he had resigned his post as IMF's chief economist in 1988. Further proof was provided by the letter of intent signed by one Latin American country in July 1991, which had included a commitment to an increase in indirect taxation and to the abandonment of welfare programmes. The structural adjustments called for by the Fund were inevitable only from the standpoint of the dominant interests of the international economic order currently in force.

85. In paragraphs 207 and 230, cooperation among United Nations human rights bodies and the World Bank and IMF was suggested, overlooking the fact that the agreements which the United Nations had signed with the World Bank and IMF amounted in effect to a declaration of independence on the part of those institutions. That was why all endeavours to coordinate the activities of the World Bank and IMF and those of the Economic and Social Council had been in vain. That being the case, would those institutions be likely to take any notice of the Sub-Commission's suggestions? The Sub-Commission's mandate was not to consider structural adjustment policies from an economic viewpoint; its mandate was rather to monitor implementation of international standards guaranteeing the right to development and social progress, and to penalize violations of those standards. In that connection, draft resolution E/CN.4/Sub.2/1991/L.23 on the fraudulent enrichment of top State officials was a step in the right direction. The Sub-Commission should concern itself with international economic crimes in general, and should investigate whether policies of the World Bank and IMF were in conformity with the Charter.

86. The suggestions made by the International Commission of Jurists to the Sub-Commission were to be found in document E/CN.4/Sub.2/NGO/7 and in the text of his statement.

87. Mr. GRAVES (World Conference on Religion and Peace) said he wished to draw the Sub-Commission's attention to the non-respect of the cultural rights of the Shi'ite peoples of Iraq. After the Gulf war, the Iraqi civilian population had risen in revolt in 13 out of the 18 provinces of the country, and had later taken refuge in the holy cities of Karbalah and Najaf or fled to Iran, Kuwait, Saudi Arabia and Turkey.

88. Discrimination based on religion was not unconnected with the guarantee of economic, social and cultural rights, and that was particularly true of the Shi'ite population in the south of Iraq, where security forces had crushed popular uprisings. The Grand Ayatollah of the Shi'ite religion, Abul Kasim Al-Khoei, aged 91, had been put under house arrest. Some 100,000 persons had fled their villages, and it would seem that half a million more had sought refuge in Iran. It was reported that napalm, phosphorus bombs and even chemical weapons had been used to quell the uprisings. Not just military imperatives were involved, but violations of the social and cultural rights of

an entire people, a people which in fact formed the majority of the Iraqi population. However, two hopeful signs could be discerned, first, the sending of a United Nations humanitarian aid mission to Iraq, and secondly, authorization by the Commission on Human Rights for the sending of a Special Rapporteur to Iraq. Mr. van der Stoel, would thus be visiting the country to investigate human rights violations. He urged those responsible for carrying out the investigations to make a thorough study of violations of the economic, social and cultural rights of the Shi'ite majority of Iraq. In particular, he asked that all Muslims should be given unrestricted access to the holy places of Karbalah and Najaf; that the house arrest of Grand Ayatollah, Abul Kasim Al-Khoei, should be ended; that the army's encirclement of the Shi'ite populations who had taken refuge in the marshlands of south-eastern Iraq should be ended; that all Shi'ites should be allowed to return to their villages, and that all should be guaranteed access to any humanitarian aid that could be provided by the United Nations.

89. There could be no viable solution to the problems caused by the Gulf war without respect for the cultural and religious rights of the Shi'ite people, and more generally for the rights of all peoples of Iraq, including the Kurds.

90. Mr. ARNOTT (War Resisters' International) welcomed the interest taken by the Sub-Commission in the question of population transfers, and took note of the document submitted by Mrs. Mbonu on the topic (E/CN.4/Sub.2/1991/47).

91. A distinction should be drawn between the protection of peoples who were victims of population transfers, and the prevention of population transfers; such practices which violated a whole range of human rights, notably the right to self-determination of peoples. While he recognized the need to humanize transfers, he wished to stress the importance of preventing the practice, and condemning its use for strategic purposes. In fact, many countries had resorted to forced villagization as a counter-insurgency strategy: he cited examples in Bangladesh, Ethiopia (under the previous regime), Guatemala, Indonesia and Romania (also under the previous regime). The Governments responsible justified the creation of such new villages on economic and development grounds, whereas in practice the results were usually disastrous both economically and in terms of development. For example, the Burmese military, in their war against the various ethnic groups in the country, aimed to isolate the militants from the inhabitants of the villages by cutting off their sources of food, finance, recruitment and intelligence. The villages were grouped together, and put under military control, which involved the imposition of a curfew, checks on food supplies leaving the village, registration of arrivals and departures, etc. That strategy had been in use since 1966, and was a major element in the tactics of the civil war. Since the beginning of the year, many thousands of Kachin villagers had been concentrated in such centres.

92. Most villagization schemes had political objectives, whatever economic pretexts were given. It might be advisable to demand proof that such projects were harmless before giving them authorization. In the case of population transfers, there would have to be proof that such transfers were in the interests of the persons concerned, and were carried out with their agreement, and were not merely for the benefit of the military, transnational corporations, or governments, although such proof would be very difficult to provide.

93. He recommended that the Sub-Commission continue its study of the question of population transfers, and that it be particularly vigilant in regard to the forced integration of populations into national entities. It might also usefully study the implications of article 7 of the Declaration of Minimum Humanitarian Standards, known as the Turku Declaration (E/CN.4/Sub.2/1991/55).

94. Mr. TOTSUKA (International Educational Development) pointed out that the struggle for implementation of economic, social and cultural rights concerned all countries, not only developing countries. He gave as an example the case of Japan, one of the most developed countries in the world, where a peculiarly Japanese phenomenon, karoshi, or death from overwork, had reached epidemic proportions since the late 1980s. It had in fact been estimated that some 10,000 middle-management "corporate warriors" died from overwork every year. In 1987, the official number of working hours per year in Japan was 2,168, 500 hours more than in France or in the former Federal Republic of Germany. Many Japanese worked unofficial extra hours for no pay, and overtime seemed to be increasing from year to year. Women workers were also becoming more frequent victims of karoshi.

95. Despite those figures, the Japanese Government denied the very existence of such a phenomenon, and accordingly refused to provide any kind of compensation for victims. It had taken no effective measures to bring an end to such excesses, even refusing to ratify all conventions of the International Labour Organisation which included provisions limiting overtime.

96. Japan had signed the International Covenant on Economic, Social and Cultural Rights, as well as the International Covenant on Civil and Political Rights. He accused the Government of failing to comply with those international instruments, and pointed out that in Japan the victims of human rights violations, notably violation of article 6 of the International Covenant on Civil and Political Rights, which guaranteed the right to life, could be counted in tens of millions.

97. The Japanese Government should admit that the karoshi phenomenon existed, and should provide compensation for victims and their families; it should take effective measures to prohibit unpaid overtime, and should ratify the ILO conventions which limited the number of hours of authorized overtime worked.

98. Mrs. KADJAR-HAMOUDA (International Federation Terre des Hommes) pointed out that civil, political, economic, social and cultural rights were all interdependent, although in reality civil and political rights took precedence over the others. In Western countries, for example, a political refugee would be more welcome than a so-called economic refugee. In that connection, she regretted that the Sub-Commission had only given somewhat hasty consideration to agenda items 7 and 8, items which concerned up to three quarters of mankind. She drew attention to the plight of the most disadvantaged, and notably to the plight of refugees in their own country, the so-called internal refugees. There were large numbers of them in Central America, Africa and Asia, living in conditions of extreme poverty and unfortunately beyond the reach of intergovernmental organizations.

99. One example was Turkey, where the denial of human rights was used as a tool of political repression against the Kurdish people, with the aim of crushing any aspirations towards self-determination and eradicating Kurdish identity. It was reported that 2,000 villages had been evacuated over the last seven years, and had subsequently been looted, burned, and destroyed. Many hundreds of thousands of Kurdish peasants had suffered such a fate.

100. In the Philippines, the sufferings of the internal refugees, whose numbers had risen to at least 1.1 million since 1986, had been exacerbated by natural disasters. They too suffered from extreme poverty and lived in cultural, economic and social isolation. A study dating from 1990 claimed to have shown a cause-and-effect relationship between massive military engagements in certain areas and large-scale agro-industrial projects which brought no benefits whatever to the local population.

101. International Federation Terre des Hommes supported any measures for the promotion of economic, social and cultural rights, and urged the Sub-Commission to give very careful study to document E/CN.4/Sub.2/NGO/21, submitted by 29 NGOs. It further requested that the expert responsible for preparing the report on extreme poverty should include in his study the situation of internal refugees.

102. Mr. ALFONSO MARTÍNEZ, referring to the report by Mr. Türk on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1991/17), urged that that question be given the priority it deserved; unfortunately, the Sub-Commission had so far tended to neglect it. The Sub-Commission should ensure that the topic be given proper consideration, since lack of time was too often merely a pretext.

103. It was vitally important to study the situation of peoples who were urgently appealing for realization of their rights, at a time when such a realization seemed an ever more remote possibility. He agreed with Mr. Saboia, Mrs. Warzazi and Mr. Guissé that the problem was a major one.

104. For example, in Latin America, the problems created by the new international economic order - above all the debt problem - were becoming increasingly acute. It was extremely difficult to find the funds needed for debt servicing. The debt problem had turned the third world into a net exporter of capital to the developed countries. Latin America alone had spent $228 billion in eight years on debt servicing, while its purchasing power had declined to such an extent that the cost of living was currently the same as it had been in 1978. Today, that debt had risen to $424 billion; it was self-perpetuating, and could in fact never be repaid.

105. The debt problem involved the question of national sovereignty in two ways. On the one hand, countries of the third world were obliged to defend their sovereignty despite the pressures being exerted on them as a result of their debt. On the other hand, they were obliged to compete for markets, at a time when such markets were becoming fewer and fewer as a result of tariff barriers.

106. It was claimed that there was a relation between the realization of economic, social and cultural rights and democracy, since one was impossible without the other. However, the situation in the third world could in no way be attributed to the existence of planned economies. It was important to explode that myth, since in fact it was the free market economy system which had failed to solve the problems, and had hence caused them to continue. Liberalism should not be seen as a panacea.

107. Mr. Monroy's report on extreme poverty (E/CN.4/Sub.2/1991/18) did indeed - contrary to what might have been feared - take full account of the general themes that the Sub-Commission had wished to have discussed, notably the causes of extreme poverty. The report was not confined to the particular phenomenon of extreme poverty, but dealt with the problem of poverty as a whole. He himself fully supported what was stated in paragraph 17 of the report concerning the interdependence of economic, social, cultural, civil and political rights. However, he believed that there should be a more detailed study of the causes of poverty in each country, and notably of the social structures of countries where the phenomenon of extreme poverty was encountered, and of the structures of the new international economic order, which bore down so unjustly on the majority. He therefore looked forward to receiving the report which Mr. Monroy was to prepare the following year.

108. He endorsed many of the arguments advanced in Mr. Türk's report on realization of economic, social and cultural rights (E/CN.4/Sub.2/1991/17). Mr. Türk had rightly drawn attention to the absence of human development in the world, and had asked whether the Sub-Commission should concern itself with that question; he himself would reply in the affirmative.

109. As he saw it, what was important was to ensure the harmonious development of the human person, who should be at the same time the agent and the beneficiary of development, in the words of resolution 1991/18 of the Commission on Human Rights.

110. The report also referred to the role of the International Monetary Fund and the World Bank. He pointed out that those institutions applied standards to third world countries that they did not apply elsewhere. Where the report mentioned the influence of the United Nations Development Programme, it should be noted that IMF and the Bank had considerably greater influence on the policies of countries than any influence that could be exerted by UNDP.

111. He agreed with Mr. Türk that there was need to tackle practical problems, but pointed out that the mere discussion of structural adjustment implied that it was to be taken for granted; in fact, the whole principle of structural adjustment ought to be called in question. Lastly, he believed that the Sub-Commission, which had devoted very little time to considering the reports, should enhance its credibility by commissioning a practical study on the implementation of economic, social and cultural rights.